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In re Application of: KHAMAR
Application No.: 10/502,417
PCT Application No.: PCT/IB02/05516
Int. Filing Date: 10 December 2002
Priority Date Claimed: 10 December 2001
Attorney Docket No.: 574152000200
For: METHOD OF TREATING CANCER

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: DECISION ON
: PETITION UNDER
: 37 CFR 1.137(b)
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This is a decision on the "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" filed on 20 January 2006.

BACKGROUND

On 10 December 2002, applicant filed international application PCT/IB02/05516. The international application claims a priority date of 10 December 2001 and designates the United States. Accordingly, the thirty-month period for commencement of the national stage in the United States and paying the basic national fee expired at midnight on 10 June 2004.

On 07 June 2004, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) concerning a Filing under 35 U.S.C. 371 (Form PTO-1390), but did not include the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(b)(2). Accordingly, this international application became abandoned with respect to the United States at midnight on 10 June 2004 for failure to pay the basic national fee. A Notification of Abandonment was mailed on 05 August 2004.

On 20 January 2006, applicant filed the instant petition for revival accompanied by, *inter alia*, a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) concerning a Filing under 35 U.S.C. 371 (Form PTO-1390), the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the petition fee of \$1500.

DISCUSSION

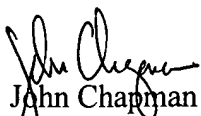
A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Petitioner's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3). The submission of the national fee satisfies the requirement of 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision, including the issuance of a Notification of Missing Requirements (PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), is required.



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